

FLATHAU, Robert J.

USSN: 10/626,014/

REMARKS/ARGUMENTS

The Applicant thanks the Examiner for renumbering Claims 38-51 to be 26-39, respectively.

CLAIM REJECTIONS

35 USC Section 102

Claims 26-39 were rejected under 35 U.S.C. 102(b) as being anticipated by Foy. The Examiner indicates at page 3 of the Action that "Foy can be utilized with any given dimension of panel. Therefore, no differentiation is made between the language of the instantly rejected claim and Foy." The Examiner goes on to indicate that "[t]he rejected method claims merely define a corner bracket assembled to a panel or panels." Applicant respectfully disagrees with both of the above conclusions.

Whether Foy can be used, as the Examiner suggests, with any given panel dimension, is *not germane* to whether the teachings of Foy anticipate the Claimed invention. Claim 26 is directed to "a method of using U.S.-dimensioned form-work panels *in making* a metric-dimensioned building member". Moreover, the method of Claim 26 includes "using the plurality of U.S.-dimensioned form-work panels *in making* a metric dimensioned building member by using the conversion corner bracket selected for use with the plurality of U.S.-dimensioned form-work panels." Foy, however, is directed specifically to a "corner form for concrete construction." Nowhere in Foy is the concept of using form-work panels of a specific dimension type to create a building member having another- different - type of dimension taught, let alone suggested. Foy does not teach "using a conversion corner bracket" as claimed. Accordingly, Foy cannot and does not anticipate -- nor does it render obvious - Claim 26.

Similarly, the method of Claim 31 is directed to " a method of using metric-dimensioned form-work panels in making a U.S.-dimensioned building member" and includes

MKE/1010547.1

2 of 2

*FLATHAU, Robert J.**U.S.S.N.: 10/626,014/*

“using the plurality of metric-dimensioned form-work panels in making a U.S.-dimensioned building member by using the conversion corner bracket selected for use with the plurality of metric-dimensioned form-work panels.” Here too, Foy does not teach “using a conversion corner bracket” as claimed. Accordingly, Foy cannot and does not anticipate, or make obvious, Claim 31.

And Claim 36 is directed to a method of providing a conversion corner bracket for use with dimensioned form-work panels in making a building structure.” The method includes “providing a conversion corner bracket, the bracket provided for use in one of: a) permitting a plurality of U.S.-dimensioned form-work panels to be used in making a metric-dimensioned building structure, and b) permitting a plurality of metric-dimensioned form-work panels to be used *in making* a U.S.-dimensioned building structure.” Again, Foy is directed specifically to a “corner form for concrete construction.” Foy does not, however, teach, let alone suggest, the recitations of the method of Claim 36. As such, Foy cannot anticipate, nor render obvious, Claim 36.

Claims that depend from allowable claims are themselves allowable. Accordingly, Claims 27-30, 32-35, and 37-39 are allowable for at least the reasons set forth above in support of Claims 26, 31 and 36.

A Terminal Disclaimer will be submitted to overcome the provisional rejections based on the judicially created doctrine of obvious-type double patenting once the Examiner has indicated that the claims are otherwise allowable.

In light of the reasons noted above, the Applicant respectfully requests that the Examiner issue a Notice of Allowance for Claims 26-39. If the Examiner agrees that the Claims are allowable, it is requested that the Examiner telephone the undersigned attorney so that the Terminal Disclaimer can be promptly provided, thereby avoiding any unnecessary

MKE/1010547.1

3 of 2

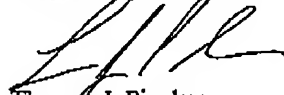
FLATHAU, Robert J.

USSN: 10/626,014/

delay. In addition, the Examiner is respectfully encouraged to contact the undersigned by telephone to discuss the above issues if it is believed that such a conference would be helpful.

A two (2) month extension fee should be charged to Deposit Account 23-2053. No other fee or petition is believed due for the filing of this response. If such a fee is due it should also be charged to Deposit Account 23-2053. Likewise, any petition required for the filing of this response should be considered to be hereby provisionally made.

Respectfully submitted,



Thomas J. Pienkos
Registration No. 46,992

Dated: February 9th, 2005

P.O. ADDRESS:

WHYTE HIRSCHBOECK DUDEK S.C.
555 East Wells Street, Suite 1900
Milwaukee, Wisconsin 53202
(414) 273-2100
Customer No. 022202